

By Bob Barton
The Tribune

Once again, Louisiana has allowed Texaco and politically powerful oil and gas lease owners to profit at the state's expense, according to local legislators and one oil and gas attorney.

"The real winners, once again, are all those who held the leases and then defaulted . . . Texaco, LL&E, Win or Lose, W.T. Burton all won and the people lost," said State Rep. Robert Adley (D) Bossier.

Adley was referring to a decision earlier this week to settle an 17-year, \$1 billion lawsuit between Texaco and the State of Louisiana. The state had argued for years that Texaco was underpaying on royalty payments. Texaco and Louisiana agreed to a settlement this week that required, in part, that Texaco pay the state \$250 million within two years.

But one local oil and gas attorney said Louisiana could have and should have named the W.T. Burton heirs and members of Win or Lose Corporation in the Texaco suit and collected from them rather than rewarding them with the opportunity to lease more state acreage.

But that is not what happened.

The state mineral board Wednesday accepted a settlement with Texaco. As part of the settlement, Texaco must relinquish its rights to develop 200,000 acres and 33,000 acres of state owned land. By virtue of the 1935 lease agreement between Burton and the state, his heirs and members of Win Or Lose must be given the first opportunity to develop 27,000 of the 33,000 acres and up to 150,000 of the 200,000 acres. In other words, the leases revert back to Burton and Win or Lose.

As part of the settlement, the

state got a majority of the Win Or Lose overriding royalty owners to agree to pay the state a 20 percent royalty on these new acres rather than the 12.5 that is currently paid the state by Texaco. All leases must also be developed within one year of becoming available.

So how did a sub-lessee with 193 members (Win or Lose) not only avoid paying a fine but get the right to develop even more leases?

In the case of the State of Louisiana versus Texaco, it must be remembered that the original leases were issued to W.T. Burton who along with former governors Huey Long, James Noe and O.K. Allen created the Win or Lose Corporation. Burton retained one-fourth of a 1/24th overriding royalty and the remainder was split between Long, Noe, Allen and their relatives, descendants and business associates. One lease obtained in 1936 totaled 570,000 acres. Burton and Win or Lose subsequently transferred those leases to the Texas Co. which later became Texaco. In consideration for the leases, Win or Lose retained an overriding royalty. That royalty has paid Win or Lose members nearly \$216 million from 1962-1993.

Campbell Hutchison, a member of a New Orleans law partnership and the lead contract attorney in the Texaco suit for the state, said Louisiana could have sued Burton and Win or Lose.

"And that's exactly what we would have done except for this settlement," said Hutchison. "But in our opinion, suing Win or Lose would have kept the issue tied up in court for several more years and cost the state more money. We recommended to settle because we feel this is the best we could get." Hutchison explained that the agreement gives the state the two things it most wanted in an agreement. "We got a step-up in

royalty payments from 12.5 percent to 20 percent and we got an agreement to 'dig it or drop it'. They have one year to drill or the land comes back to the state."

But what bothers Adley, Rep. Roy Brun and a number of local attorneys in the oil and gas business is the fact that Win or Lose Corporation had the most to lose in this law suit and ended up gaining the most.

"It's Win or Lose II," said Adley. "Overriding owners now own most of the new leases." Hutchison agreed that the overriding royalty owners could now sub-lease these new leases and once again take an overriding royalty.

"We don't care who develops the lease," said Hutchison. "We wanted to make sure the state got 20 percent."

But one local oil and gas attorney who asked not to be identified adamantly disagrees. "Our team forgot who was holding the gun. Texaco violated the contract, not the state of Louisiana. As such, the lessor (the state of Louisiana) had valid claims against W.T. Burton, Win or Lose and all shareholders in that corporation for failures of the sub-lessee (Texaco) to fully perform its legal obligations. In addition to various damage claims, full loss of the leases by forfeiture to the lessor (state of Louisiana) could follow."

He believes that since Texaco failed to make proper royalty payments and develop the leases, that all leases are in default, including the one signed by W.T. Burton in 1935. That would mean that Win or Lose and all its members, including the Long family, would lose their overriding royalty interests. The state could then have taken possession of all state land and put everything out for bid.

"This may have taken several

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more years," said the local attorney , "but just look at what the state would have gotten. Instead, we perpetuated the same old cancer and created a new one to boot."

"Things are so rushed," said Rep. Roy Brun, (R) Shreveport referring to the agreement reached less than two weeks ago but signed this past Wednesday.

Adley also questioned the haste to approve an agreement that was more than 11 years in coming.

More than one local oil and gas attorney also said it didnot look good that the chairman of the mineral board, John "Bucky" Schober of Shreveport is the legal counsel for Palmer Long, Russell Long and others involved in the Win or Lose Corporation.

"The person who chairs the legal authority that is suppose to oversee this contract, his clients are part of the group that has the most to win or lose, depending upon how this issue was settled and how it will be regulated in the future," one attorney said.

Of the \$250 million to be paid to Louisiana, only \$113 million is principal and \$137 million is interest.

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